



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 90]

नई दिल्ली, सोमवार, मार्च 18, 1968/फाल्गुन 28, 1889

No. 90]

NEW DELHI, MONDAY, MARCH 18, 1968/PHALGUNA 28, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

CENTRAL BOARD OF DIRECT TAXES

NOTIFICATION

INCOME-TAX

New Delhi, the 18th March 1968

S.O. 1112.—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. These rules may be called the Income-tax (Second Amendment) Rules, 1968.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), for rule 11A, the following rule shall be substituted, namely:—

11A. *Limits for life insurance premiums in the case of authors, etc.*—In the case of an individual being an author, playwright, artist, musician or actor, the total amount which qualifies for the purposes of computing the deduction under sub-section (1) of section 80C shall not exceed—

(i) an amount equal to the aggregate of 33 1/3 per cent. of the income from such profession included in his gross total income and of 30 per cent. of the remaining part of the gross total income, or

(ii) a sum of Rs. 20,000,

whichever is less.”

3. In rule 18 of the principal rules, for the words, brackets, letter and figures “clause (d) of sub-section (3) of section 84”, the words, brackets, letters and figures “clause (c) of sub-section (6) of section 80J” shall be substituted.

4. In rule 19 of the principal rules,—

- (i) after sub-rule (5), the following sub-rule shall be, and shall be deemed always to have been, inserted, namely:—

“(5A). The capital employed in a ship shall be taken to be the written down value of the ship.”;

- (ii) in sub-rule (6), in clause (ii), for the figures “43”, the figures and letter “43A” shall be substituted.

5. After rule 19 of the principal rules, the following rule shall be inserted, namely:—

“19A. *Computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J.*—(1) For the purposes of section 80J, the capital employed in an industrial undertaking or the business of a hotel shall be computed in accordance with sub-rule (2) to (4), and the capital employed in a ship shall be computed in accordance with sub-rule (5).

(2) The aggregate of the amounts representing the values of the assets as on the first day of the computation period, of the undertaking or of the business of the hotel to which the said section 80J applies shall first be ascertained in the following manner:—

- (i) in the case of assets entitled to depreciation, their written down value;
- (ii) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee;
- (iii) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business;
- (iv) in the case of assets being debts due to the person carrying on the business, the nominal amount of those debts;
- (v) in the case of assets being cash in hand or bank, the amount thereof.

Explanation 1.—In this rule, “computation period” means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A.

Explanation 2.—The value of any building, machinery or plant or any part thereof as is referred to in clause (a) or clause (b) of the Explanation at the end of sub-section (6) of section 80J shall not be taken into account in computing the capital employed in the industrial undertaking or, as the case may be, the business of the hotel.

Explanation 3.—Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset.

(3) From the aggregate of the amounts as ascertained under sub-rule (2) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts due by the assessee (including amounts due towards any liability in respect of tax), not being,—

- (a) in the case of an assessee being a company, the amount of its debentures, if any, and
- (b) in the case of any assessee (including a company), any moneys borrowed from an approved source for the creation of a capital asset in India, if the agreement under which such moneys are borrowed provides for the repayment thereof during a period of not less than seven years.

Explanation.—For the purpose of this sub-rule,—

- (i) “approved source” means the Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India Ltd. or any banking institution or any person in a country outside India or any of the following financial institutions, namely:—

- (a) a State Financial Corporation established under the State Financial Corporations Act, 1951 (63 of 1951);
- (b) the Industrial Development Bank of India, established under the Industrial Development Bank of India Act, 1964 (19 of 1964);

- (c) the Madras Industrial and Investment Corporation of India Limited;
- (d) the Re-finance Corporation for Industry Limited;

(ii) "tax" means—

- (a) income-tax or super-tax (including advance tax), due under any provision of the Act;
- (b) wealth-tax due under any provision of the Wealth-tax Act, 1957 (27 of 1957);
- (c) super profits tax due under any provision of the Super Profits Tax Act, 1963 (14 of 1963);
- (d) surtax due under any provision of the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(iii) any liability in respect of tax shall be deemed to have become due—

- (a) in the case of advance tax due under any provision of the Act, on the date on which the payment first became due; and
- (b) in the case of any other tax, on the first day of the period within it is required to be paid.

(4) The resultant sum as determined under sub-rule (3) shall be diminished by the value, as ascertained under sub-rule (2), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under sub-rule (3) are required to be deducted in computing the capital.

(5) The capital employed in a ship shall be taken to be the written down value of the ship."

6. For rule 20 of the principal rules, the following rule shall be substituted, namely:—

"20. *Computation of portion of dividend attributable to profits and gains from new industrial undertakings or ships or hotel business.*—(1) The amount of the dividend paid or deemed to be paid by a company in respect of any previous year (hereinafter referred to as the "relevant previous year") for which a deduction is allowable under section 80K, shall be determined in accordance with sub-rules (2) to (5).

(2) The aggregate of that part of the profits and gains of the company of the relevant previous year and of the previous years preceding the relevant previous year, on which no tax was payable by it under section 84 of the Act or under sub-section (1) of section 15C of the Indian Income-tax Act, 1922 (11 of 1922), or, as the case may be, in respect of which a deduction is allowable under section 80J of the Act, shall first be ascertained.

(3) From the amount ascertained as in sub-rule (2) there shall be deducted the aggregate of the amounts of dividends, paid or deemed to be paid by the company in respect of the said preceding previous years, on which tax was not payable under section 85 of the Act or under sub-section (4) of section 15C of the Indian Income-tax Act, 1922 (11 of 1922), or, as the case may be in respect of which a deduction is allowable under section 80K.

(4) The dividend paid or deemed to have been paid by the company in respect of the relevant previous year shall be regarded as having been paid out of its funds in the following order, namely:—

- (i) first, out of, and to the extent of, the resultant sum determined as in sub-rule (3); and
- (ii) then, out of the remaining funds.

(5) The part of the dividend which is regarded as having been paid out of the sum mentioned in clause (i) of sub-rule (4) shall be the amount for which a deduction is allowable under section 80K and in the certificate to be given under sub-rule (4) of rule 31, this part shall specifically be indicated.

Explanation.—The entire amount of dividends paid as a result of declaration in a meeting held to consider the accounts of the company in respect of any previous year shall constitute dividends paid in respect of that previous year."

7. In rule 26 of the principal rules, for clause (b), the following clause shall be substituted, namely:—

“(b) in respect of such income payable on or after the sixth day of June, 1968—

(1) where the income is payable—

(i) before the 10th day of November, 1967,

£ 1 Sterling = Rs. 21.00;

(ii) after the 10th day of November, 1967,

£ 1 Sterling = Rs. 18.00;

(2) U.S. \$ 1—Rs. 7.50.”

8. In rule 27 of the principal rules, before the figures “104”, the figures and letter “80B” shall be inserted.

9. In rule 30 of the principal rules, in sub-rule (1), for sub-clause (i) of clause (b), the following sub-clause shall be substituted, namely:—

“(i) in respect of sums deducted in accordance with the provisions of section 194A,—

(1) where the income by way of interest is credited by a person carrying on a business or profession to the account of the payee as on the date unto which the accounts of such business or profession are made, within two months of the expiration of the month in which that date falls;

(2) in any other case, within one week from the last day of the month in which the deduction is made; and”

10. After Part VII of the principal rules, the following Part shall be inserted, namely:—

“PART VIIA

Tax Credit

40A. *Claim for credit.*—(1) A claim for credit under section 54A shall be made in Form No. 29A and shall contain the particulars specified therein.

(2) The claim shall be signed, in the case of an individual, by the individual himself, and in the case of a company, by the principal officer thereof.

(3) The claim under sub-rule (1) shall be made to the Income-tax Officer exercising jurisdiction under the Act in the case of the claimant”.

11. For rule 50 of the principal rules, the following rule shall be substituted, namely:—

“50. *Accountancy examinations recognised.*—The following accountancy examinations are recognised for the purpose of clause (v) of sub-section (2) of section 288, namely:—

(1) The National Diploma in Commerce awarded by the All-India Council for Technical Education under the Ministry of Education, New Delhi, provided the diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination.

(2) Government Diploma in Company Secretaryship awarded by the Department of Company Affairs under the Ministry of Industrial Development and Company Affairs, New Delhi.”

12. For rule 90 of the principal rules, the following rule shall be substituted, namely:—

"90. Commutation of annuity.—Any payment in commutation of annuity shall not exceed—

(a) in a case where the employee receives any gratuity, the commuted value of one-fourth of the annuity which he is normally entitled to receive, and

(b) in any other case, the commuted value of one-third of such annuity, such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality."

13. In rule 113 of the principal rules, for the words, brackets and figures "sub-section (1) of section 138", wherever they occur, the words, brackets, letter and figures "clause (b) of sub-section (1) of section 138" shall be substituted.

14. In rule 115 of the principal rules, for clause (b), the following clause shall be substituted, namely:—

"(b) in respect of income accruing or arising or deemed to accrue or arise to the assessee or received or deemed to be received by him or on his behalf on or after the 6th day of June, 1966—

(1) where such income accrues or arises or is deemed to accrue or arise to the assessee or is received or deemed to be received by him or on his behalf—

(i) before the 19th day of November, 1967,

£ 1 Sterling = Rs. 21.00;

(ii) after the 18th day of November, 1967,

£ 1 Sterling = 18.00;

(2) U.S. 1 = Rs. 7.50."

15. In Appendix II to the principal rules,—

(i) in Form No. 19, for the words and figures "profits and gains held to be exempt under section 85", the words, figures and letter "profits and gains in respect of which the company is eligible for tax relief under section 84 or, as the case may be, section 80J" shall be substituted;

(ii) in Form No. 24, in column 22, for the word, figures, letter and brackets "section 80A(1)", the word, figures, letter and brackets "section 80C(1)" shall be substituted;

(iii) in Form No. 26, for sub-item (i) in item 5, the following shall be substituted, namely:—

"(i) Amount of dividend as determined by the Income-tax Officer under section 197(3) to be eligible for the deduction specified in section 80K";

(iv) in Form No. 26A, in the table below item 3, for the column heading "Date(s) on which tax was deducted at source", the column heading "Date(s) on which tax was deducted at source and the amount of such tax" shall be substituted;

(v) in the Enclosure to Form No. 28, for the words and figures "sections 192 to 195", the words, figures and letter "sections 192 to 194, section 194A and section 195" shall be substituted;

(vi) in Form No. 29,—

(a) in item 3, for sub-item (v), the following sub-item shall be substituted, namely:—

"(v) Other items";

(b) in item 5, for the words and figures "sections 192 to 195", the words, figures and letter "sections 192 to 194, section 194A and section 195" shall be substituted;

(vii) after Form No. 29, the following form shall be inserted, namely:—

“Form No. 29A

[See rule 40A(1)]

Claim for Tax Credit

To

The Income-tax Officer,

Sir,

I....., being the principal officer of M/s.....

(Name of the company)

*I.....

(Name of the claimant)

request that credit under section 54A be granted for the appropriate amount to which the said company is entitled. The relevant particulars are furnished

I am
hereinbelow:—

1. *(a) Where the claimant is a company,—
 - (i) Place of registration and location of head office of the company.
 - (ii) Address of the company in India.
- *(b) Where the claimant is an individual,
 - (i) Present address.
 - (ii) Permanent address.
 - (iii) Name of father (or husband).
 - (iv) Domicile and Nationality.
2. G.I.R. No.....
3. Date on which the capital assets, being shares in an Indian company, were transferred.
4. Assessment year for which the capital gains arising from the transfer of the capital assets aforesaid is chargeable to tax.
5. The amount of capital gains aforesaid as assessed/declared in the return of income.
[Where the return of income in respect of the assessment year specified against item 4 has not been furnished, state the amount of capital gains aforesaid chargeable to tax, giving details on a separate sheet.]
6. Income-tax payable on the capital gains specified against item 5.
7. Cost of acquisition [as ascertained for the purposes of clause (ii) of section 48] of the transferred shares.
8. Details of amount invested in approved investments:

Sl. No.	Description of the approved investment	Date of investment	Mode of investment, that is, whether by subscription or by purchase from the specified offices	Amount of the investment
1	2	3	4	5

GRAND TOTAL

9. Amount of tax credit claimed.

I hereby declare that what is stated above is true to the best of my knowledge and belief.

Place-----

Date-----

Signature

Note.—(1) The application shall be in duplicate.

(2) The application shall be signed by the claimant personally, and where the claimant is a company, by the principal officer of the company.

Delete whichever is not applicable.”;

(viii) in Form No. 30, in Note No. 3, for the words and figures, “sections 192 to 195”, the words, figures and letter “sections 192 to 194, section 194A and section 195” shall be substituted;

(ix) in Forms Nos. 46, 47, 48 and 49, for the words, brackets and figures “under sub-section (1) of section 138”, wherever they occur, the words, brackets, letter and figures “under clause (b) of sub-section (1) of section 138” shall be substituted.

[No. 14/F. No. 3(1)/68-TPI.]

V. RAMASWAMI IYER, Secy.

